



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Brett G. Kappel, Esq.  
Arent Fox LLP  
1050 Connecticut Avenue, NW  
Washington, DC 20036

**MAY 29 2014**

RE: MUR 6609  
Friends of Connie Mack, Inc.

Dear Mr. Kappel:

On July 25, 2012, the Federal Election Commission notified your clients, Friends of Connie Mack, Inc. and Craig Engle as treasurer (the "Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 20, 2014, based upon the information contained in the complaint, and information provided by the Committee, the Commission decided to exercise its prosecutorial discretion and dismiss the allegations against your clients and closed its file in this matter. Accordingly, the Commission closed its file in this matter on May 20, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Donald E. Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", is written over the typed name.

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

140.44354407

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Friends of Connie Mack, Inc. MUR 6609  
and Craig Engle, as treasurer  
Connie Mack

**I. INTRODUCTION**

This matter was generated by a complaint filed by Clyde M. Collins, Jr. on July 20, 2012, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Connie Mack, and Friends of Connie Mack, Inc. and Craig Engle in his official capacity as treasurer. It was scored as a low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

In this matter, Complainant Clyde M. Collins, Jr. alleges that Connie Mack, and Friends of Connie Mack, Inc. and Craig Engle in his official capacity as treasurer (the "Committee")<sup>1</sup> violated the Act's prohibition on the use of campaign funds for personal use, specifically, for "clothing, other than items of *de minimis* value." Compl. at 1. Complainant asserts that a member of Mack's campaign committee purchased clothing "at Brooks Brothers [in] Jacksonville, FL . . . apparently for Respondent Connie Mack," on two occasions. Complainant

---

<sup>1</sup> Connie Mack was an unsuccessful 2012 candidate for United States Senate from Florida. Friends of Connie Mack, Inc. was Mack's principal campaign committee. On January 31, 2013, the Committee filed an Amended Statement of Organization, changing its name to "Mack PAC," and on February 5, 2013, it filed a Notification of Multicandidate Status.

1 alleges that each transaction was in the amount of \$234.33, and that “the personal clothing  
2 items” were charged to Mack’s federal campaign account.<sup>2</sup> *Id.*

3 Complainant further alleges that the Committee has “admitted that it violated federal  
4 campaign laws regarding expenditures of clothing for the candidate,” and that “[w]hen  
5 questioned by the media about the use of campaign funds for personal items . . . [a campaign  
6 spokesman] stated, ‘The Brooks Brothers charges were mistaken, inappropriate charges made by  
7 travel staff.’” *Id.*

8 In its response, the Committee acknowledges that an employee of Mack’s Senate  
9 campaign made two clothing purchases in 2012 and “charged the purchases to a campaign  
10 American Express card.” Resp. at 1. The Committee’s 2012 July Quarterly Report discloses a  
11 credit card payment to “American Express” on April 12, 2012, in the amount of \$49,820.15 with  
12 a corresponding memo-entry to “Brooks Brothers” for “clothing” in the amount of \$234.33.<sup>3</sup>  
13 The Report discloses another credit card payment to “American Express” on May 16, 2012, in  
14 the amount of \$40,384.96, also with a corresponding memo-entry to “Brooks Brothers” for  
15 “clothing” in the amount of \$234.33.<sup>4</sup>

16 The Committee states that “the error was brought to the Committee’s attention on July  
17 17, 2012,” and that it required the employee to “immediately reimburse the campaign for the  
18 reported charges.” *Id.* The Committee’s 2012 12 Day Pre-Primary Report discloses a receipt of  
19 \$706.82 from “Deputy Campaign Manager” Ed Miyagishima on July 20, 2012 for

---

<sup>2</sup> The Complaint names Connie Mack as a respondent but does not provide information as to whether Mack was personally involved with the transactions at issue in the Complaint.

<sup>3</sup> See Friends of Connie Mack, Inc.’s July 2012 Quarterly Report of Receipts and Disbursements at 382, 386 (Jul. 13, 2012).

<sup>4</sup> See Friends of Connie Mack, Inc.’s July 2012 Quarterly Report of Receipts and Disbursements at 360, 381 (Jul. 13, 2012).

1 “Reimbursement for inadvertent AMEX Charges.”<sup>5</sup> The Committee maintains that it “acted  
2 immediately as soon as it discovered the charges were inappropriate,” and “had already taken  
3 remedial action two weeks *before* it learned that the . . . complaint had been filed” (emphasis in  
4 original). *Id.* at 2.

5  
6 **B. Legal Analysis**

7 A contribution accepted by a candidate may be used by the candidate for otherwise  
8 authorized expenditures in connection with the campaign for federal office of the candidate.  
9 See 2 U.S.C. § 439a(a)(1). However, a contribution or donation described in 2 U.S.C.  
10 § 439a(a) shall not be converted by any person to personal use. 2 U.S.C. § 439a(b)(1).  
11 “Personal use” is defined as any use of funds in a campaign account of a present or future  
12 candidate to fulfill a commitment, obligation, or expense of any person that would exist  
13 irrespective of the candidate’s campaign, including “a clothing purchase.” 2 U.S.C.  
14 § 439a(b)(2)(B). Such use of campaign funds includes, but is not limited to, the use of funds  
15 for . . . “[c]lothing, other than items of *de minimis* value that are used in the campaign.”  
16 11 C.F.R. § 113.1(g)(1)(i)(C).

17 The Response acknowledges that the alleged clothing purchases were made using a  
18 campaign account, by an agent of the Committee, but observes that the funds have been repaid to  
19 the Committee, and the Committee’s disclosure reports show the reimbursement. Given the  
20 relatively low amount in violation and the prompt remedial action taken by the Committee, the

---

<sup>5</sup> See Friends of Connie Mack, Inc.’s 2012 12-Day Pre-Primary Report of Receipts and Disbursements at 80 (Aug. 2, 2012). The Committee states that “[t]he total amount of the inappropriate charges was . . . \$706.82.” Resp. at 2. The amount of the reimbursement appears to cover the two alleged payments (\$234.33 + 234.33 = \$468.66) and an additional payment of \$238.16 (\$706.82 - \$468.66). The Committee stated that additional personal charges were uncovered as a result of a review of all charges made by that employee. Resp. at 1.

- 1 Commission does not believe this matter warrants further enforcement action. Accordingly, the
- 2 Commission exercises its prosecutorial discretion and dismisses this matter pursuant to
- 3 *Heckler v. Chaney*, 470 U.S. 821 (1985).